G. R. S. 58]

Previous references. (1924. Mysore.)

File No. 57-24
Serial Nos. 145

Later references.

Previous

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

Part B for August 24.

SUBJECT

Attempts of the Municipal Councillors of Mysore City to reinstate some of the Municipal Servants

3 To, The President City Municipal Mysore
Lr. No. 1309/24 dt. 15-5-24.

Stating that Sundry persons of Mysore that appeal decisions Municipal Council against the orders of the President the exercise of his powers of abatement granted

MB
4-12-24

R. S. 11] 1924-25

GENERAL AND REVENUE SECRETARIAT.

(Mdl)

NOTES.

File No. 87-24

FILE HEADING.

Mysore City Mdl Cl.

From

The Pt. City Mdl Cl. Mysore

No. Dated 22/7/24. Received 25/26.7.24.

Diary No.	603	Enclos. 1 file	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the papers relating to the attempts of some of the Mdl. Councillors to reinstate certain Mdl. officials dismissed by the late President.

NOTES AND ORDERS.

Dewan's orders on the letter

Secretary, L & L., Please put up all connected files about these two matters"

(Initd) A.R.R.
25/7/24

Y L.S.G. to Comply.

(Initd) P.N.
25.7.24

NOTES—First Sheet.

G. R. S. III-2]

WD 2910—GPB—10,000—31-5-24

General and Revenue Secretariat. | Nil File No. 87 of 1924.

Serial No.

D. nos 6873 & 6904

3) On a petition received from Chikkiah appealing against the order of the President dismissing him from service, the case has been worked up and subs to the I member on 8.7.24, with all the connected papers relating to Chikkiah's case and the embezzlement of refund of octroi duty.

4) The nrl 23-23 (3, 4, 9, 10, 11, 13, 15 & 16) Coll:, relating to the Chief Sanitary Inspector is put up.

Submit for orders

28/7/24

5) As regards the duties to be entrusted to the Asst Sanit Inspr referred to in para 5 of the Merchants' letter, it is to be stated that the point was not definitely raised. The first reference in this connection was from the Sanit Inspr on 1st August 1923 which recommended the abolition of the post for various reasons.

The question of duties of the Chief Sanit Inspr was incidentally raised in the meeting of the Council held on 8th Dec 1923. & though the Council was in the meeting held

NOTE—Contin. sheet.

G. R. S. III-2]

WD 2610—GPB—10,000—31-5-24

General and Revenue Secretariat. | Mad. File No. 87 of 1924.

Serial No.

Fl 6. On 15th Decr 1923 of opinion that all the duties set forth in Mr Mankar's note be assigned to the Asstt in toto, the President was not in favour of the resolution (vide para 7 of Fl 5) & submitted the matter for orders of Govt. along with the resolution of the Council that they reserve their opinion regarding the Chief Insp. Inspectress's appointment till they have their original resolution of ~~[illegible]~~ trying the existing arrangement till the end of 1923-24 (vide para 1 of Fl 5 and Fl 6). As the subject opened with the abolition of the appointment, orders were passed pending the resolution. Fl 7.

Fl 8. 29/7.

Do letter from the K. Mylapore Mun, forwarding a copy of his official letter on the question whether an appeal lies to the Mad: Cl: from an order passed by the President, dismissing a Mad. servant whose pay is less than Rs.

Dno 724 / 30.7.24

al letter (Dno. 713) put up.

Note.—Contn. sheet.

G. R. S. III-2]

WD 2810—GPR—10,000—31-5-24

General and Revenue Secretariat. | Mdl File No. 87 of 1924.

Serial No.

7) Dewan's orders on the letter.
"Secretary, L & L, may kindly put up papers"
(Initd) A.R.B.
30-7-24.

8) Kind reference is invited to para 3 supra.

9) Secs 24(c), 37 and 46(6)(i) of the Mdl. Regn. go to show that the Mdl. Council is the sovereign organ in a municipality, which has got the powers of delegating its functions to a president. The bye-laws under Sec. 46(6)(i) relating to the powers of patronage conferred on the President by the Mdl. Cl. do not expressly say that an appeal against the action of the President lies to the Council. The ~~Proceedings~~ Rules, as ~~these precedents~~, are only subsidiary in character and cannot take rank above the express law on the subject, set forth in the sections mentioned above. Even granting that the ~~precedents~~ rules are defective in as much as they do not specifically lay down a ruling on the subject matter in dispute, the

G. R. S. III-2]

WD 2310—GPB—10,000—31-5-24

General and Revenue Secretariat. | Rev. File No. 87 of 1924

Serial No.

President who exercises the powers delegated to him by the Mk. El. Bill have to submit to the right of the sovereign organ, sitting in judgment over his action.

10) Subst for orders

M. 30/7/24.

11) The phrase interpretation of statute - it is stated that all appeals whatever are merely the creature of statutory enactment & must be ~~be~~ be affirmatively given & not presumed. (page 351) It is also added that a party should not be deprived of the right of appeal except by express words or necessary implication & if the words of a section giving a right of appeal are ambiguous they ought to be given a liberal interpretation so as to give if possible a right of appeal. (page 353)

12) The President has got some doubt about the provisions of the bye-laws. They have to be interpreted perhaps so as not to deprive the right of appeal from punishments inflicted by one

NOTE—Conton. sheet.

3. R. S. III-2]

WD 2810—GPB—10,000—31-5-24

General and Revenue Secretariat. | 2nd File No. 97 of 1924.

Serial No.

Appeal to a superior authority
by Municipal Servants.
A. A. Khan, J.

13) After careful consideration of the question raised viz., whether the Municipal Council has power to entertain appeals from orders of the President dismissing a Municipal Servant under the powers vested in him by Rule I (b) of Bye-laws, I have come to the conclusion that the Municipal Council seem to possess such power.

14) Section 46(e) of the Regulation empowers the Council to delegate its powers of appointment, dismissal of its servants to the President.

15) By Rule I(b) of the Bye-laws the Council has delegated this power up to certain limits to the President.

16) By the use of the word 'delegate' and from the scheme of the Regulation it is clear that a relationship similar to that of principal and agency is established between the Council and its President in respect of these and other matters in which the powers of the Council are delegated to the President under Rule I(a) of the Bye-law. Proviso to Rule I(a) of the Bye-laws shows clearly that the President shall not act contrary to the instruction of the

NOTE—Contn. sheet.

Serial No.

Council and that an appeal shall lie in all matters in which an appeal is practicable. It is a fundamental principle of law that an agent may have a large discretion, but he is bound in law to follow the principal's instructions, provided they do not involve anything unlawful. (See Pollock & Mulla on Contract Act Third Edn. p.529)

(7) If the acts of the President be held to be final, the Council will have no control over him. But in law the council will be held liable for the acts of its President. Suppose the servant brings an action for damages for wrongful dismissal by the President, the Council will be held liable. It will be an anamolous position to hold that the Council who has no manner of control over the action of its servant the President should be bound by his acts to third parties.

(8) From the analogy of principal and agency and from the powers of superintendance &c, reserved under Rule I(a), it appears to me that an appeal will lie to the Council

DIWAN'S OFFICE,
6 AUG. 1924
No. 1058

(9)

(10)

G. R. S. III-2]

WD 2810—GPB—10,000—31-5-24

General and Revenue Secretariat.

2nd File No. 57 of 1924.

Serial No.	
	1) Dft. submd for appl M. 7/8/24 HK. Law Secy) 7/8 2) Dft. for appl as drafted Law Secy) 9/8 3) appl 8/8 13/8. 4) 13/8
3	no L 1309 dt 15/8/24. To prevent city civil nuisance. States that an appeal does lie to the civil ~~in such cases~~ Court
4	From, Mr K.Basavaraja ~~Sportsman~~ Asst. Sec'y. Requests Govt to call upon the M to place their propositions before the Ad. Cl 1) Secy's orders on the Dft: "Put up previous papers". (sd) PJW. 15/8 2) The question has been disposed of in Sl 3. 3) Submd for orders M. 16/8/24 HK. Law Secy) 16/8 4) Informed 16/8

Dno. 1034 15.8.24.

NOTE—Contn. sheet.

1034

91

G. R. S. III. 2] WD 2810—GPB—10,000—31-5-24

General and Revenue Secretariat. | Nil File No. 87 of 1924

Serial No.	
	30) Dft Endt orders for appl M. 20/8/24 KMK Land Rdcy) — 21/8 appd 21/8 21/8
5	no L 1573 of 22/8/24 To Mr. Ko. Dhanu Kotichelly Tellicis. Informs Hon'ble Govt in their order no L1509 of 1924 have held that an appeal from Govt's orders lies to the Board in cases like Chirakkal's
	B M. 26/9/24

Next—Contn. sheet.

To 19
25.7.24.

Mr 87-24-1

Municipal Office,
Mysore.

D.O.

Dated. 22nd July 1924.

GENERAL & REVENUE SECRETARIAT.
26 JUL 1924
LOCAL SELF GOVT. BRANCH

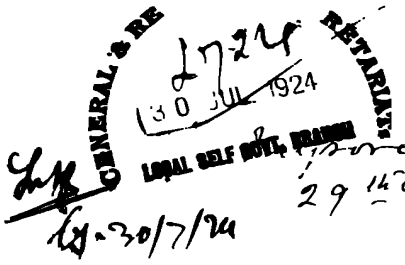
Dear Mr. Sundara Rao,

The papers sent herewith which relate to the attempts of some of the Municipal Councillors to reinstate certain Municipal officials dismissed by the late President may kindly be submitted to the Dewan for perusal.

e is pleased to issue any instructions in the matter, hey may kindly be conveyed to me.

2. The officials referred to above were dismissed in connection with the embezzlement of refund of octroi duty. At the meeting of the Council on the 6th March 1924, the eighth subject for consideration was a proposition from Mr. Manohar Lait and others about Manegar Chikkiah's appeal. When this subject came up, the President pointed out to the Council that no appeal lay from his order to the Council. An extract from the proceedings of the meeting relating to this subject is enclosed in the file.

3. On the 30th March 1924, Mr.Purushothamanandagiri Goswamy gave notice of certain propositions and followed it up by a reminder dated 12th April. These propositions related to (1) the dismissal of Chikka (2) the duties to be entrusted to the Chief Sanitary Inspector and (3) the appointment of a Manager to the Municipal Office. On the 22nd April, a reply was sent to his letter. As to his propositions about the dismissal of Chikkiah, he was informed that an appeal did not lie to the Council from the President's Order. His view is that the President is subordinate to the Council and every order passed by him is subject to appeal or revision by the Council.



Ly. 30/7/24

29th July 1924

Dear Mr Sundara Rao

In continuation of my letter of the 22nd inst about the speech at meeting I was asked to call by some of the Councillors for the consideration of the orders passed by Mr Gurkanowara Iyer in connection with the services of certain officials, I send herewith a copy of an official reference which I have made to-day, together with copies of its enclosures.

The papers may

12

No.
Misc.

OFFICE OF THE PRESIDENT.

CITY MUNICIPAL COUNCIL, MYSORE.

Dated 28th July 1924

From

K. MYLAR RAO, Esqr. B.A., B.L.,
PRESIDENT, CITY MUNICIPAL COUNCIL,
MYSORE.

To

B. Nagappa, Esquire, Bar-at-Law,
Secretary, to the Government of His Highness
the Maharaja of Mysore, Local & Legislative
Departments.

Sir,

I have the honor to submit for favour of orders of Government the question whether an appeal lies to the Municipal Council from an order passed by the President dismissing a Municipal servant whose pay is less than Rs 40.

2. The question has arisen in connection with the orders passed by Mr. C.Srikanteswara Aiyar dismissing or dispensing with the services of certain Manegars concerned in the case of certain embezzlements and overpayments in the Municipality. One of them Chikkiah presented an appeal and this was discussed at the meeting of the Council on the 6th March 1924. Mr. C. Srikanteswara Aiyar pointed out that no appeal lay to the Council and with his view, a majority of the members disagreed. An extract from the Proceedings of the meeting is sent herewith.

3. On the 30th March 1924, Mr.Purushothamanandagiri Goswamy gave notice of certain propositions of which one was about the dismissal of Chikka. He was informed in reply on the 22nd April that an appeal did not lie to the Council from the President's Order.

13

4. Thereafter on the 10th July 1924, a letter was received signed by 12 Councillors requesting that a Special meeting of the Council be called for considering the orders passed by the late President dismissing Chikkiah and dispensing with the services of Syed Gouse . I sent them a reply that as no appeal lay from the President's order to the Council, the special meeting which they desired to be convened would be to no purpose.

5. I received another letter yesterday evening signed by 17 Councillors asking me to convene within four days of its receipt a special meeting for placing before it the propositions mentioned in the letter received on the 10th July. A copy of that letter is sent herewith. I am bound by Section 22 (b) of the Regulation to call a special meeting but it will be to no purpose unless an appeal lies from the President's order to the Council. Hence this reference is made.

6. The Rules framed under Section 46 (b) (i) of the Municipal Regulation defining the powers and duties of the President contain three Clauses (a), (b) and (c). Clause (a) delegates to the President the powers conferred upon the Municipal Council in certain Sections of the Regulation; and in the proviso to that Clause, power is expressly reserved to the Council to receive appeals from the President's order and to revise the same. But in Clause (b) relating to appointments, punishments and dismissals of Municipal servants whose pay does not exceed Rs.40 a month, no power of appeal or revision is reserved. Hence I am inclined to think that no appeal lies from the late President's orders dismissing or dispensing with the services of certain managers.

1)

23(1) of the Act

15

To

The President,
The City Municipal Council,
Mysore.

—

Sir,

We are in receipt of your letter No.112 dated 21-7-24. We have the honour to draw your kind attention to the fact that any motion or proposition of a Councillor shall be placed before the Council for discussion and its decision Vide- The Mysore Municipal Regulation Section 26 Clauses 1 and 3. There is no room for any discussion to be exercised by the President, provided the conditions in the said clauses are fulfilled, and it is obligatory on the President to place such matters before the Council. Any action taken by the President contrary to the said rules would be both improper and illegal.

As regards the right of appeal against the President's order to the Municipal Council, there is no provision in the Regulation to the effect that no appeal lies, as you presume. But it is a well-understood principle that the President only acts on behalf of the Municipal Council and no independently of it as is amply proved by the fact that the President performs duties and exercises powers deligated to him by the Municipal Council under Section 46 B(1) and any action of his, in opposition to the Council is subject to the review of the Council. Besides, one of the four propositions sent up to you to be placed before the Council is, whether an appeal lies against the President to the Council or not. Under Section 46, the Council have power to make, alter or rescind the rules referred to above. It looks humorous to say that the Council who are in the position of a master and who have delegated some of their powers to an agent (President) are incapable of hearing an

appeal or revising an order and controlling the actions of their agent. Hence, it is a point yet to be debated upon.

As regards the duties of the Chief Sanitary Inspector, your reasons for not placing the matter before the meeting asked for, are far from satisfactory. Such rout matters demand an immediate execution of the Resolutions of the Council even pending the ratification by the Government. But when the Government record, the Resolutions, it means a sanction and no further clear and definite order of the Government is necessary. This is only a way of evading the issue and delaying the matter.

Any way, all these matters are to be discussed only by the Council and it is not for the President to arbitrarily refuse to call a special meeting, as required by the rules quoted above, which are mandatory and not recommendatory.

We earnestly trust that you will not go against the wishes of the Municipal Councillors or the well-defined provisions of the Regulation, and that you will be pleased to convene within four days of the receipt of this, a special meeting of the Council, as prayed for in our requisition of 8th July 1924 , for placing the propositions mentioned therein before the same.

Mysore,
25th July 1924.

We have the honour to be,
Sir,
Your most obedient servants,

Sd. P.Pallanjie.
" Mahomed Sait.
" U.R.Lingoji Rao(in Kannada)
" M.K.Madhava Rao Poonn.
" K.Bhanaketiahetty.
" Y. Virupakshiah.
" N.Setwoji Rao. (in Kannada)
" V.Tiruvengada Mudaliar.
" B.Munivenkatappa.
" T.S.Siddappa.
" M.Narayanaswamy.
" S.Srikantachar (in Kannada)
" Charles Theobald.
" K.Basavaraj Urs.
" B. Ramaniah.
" S.Purushothamanandagirigo
" Rev.J.Cochet.

17

Extracts from the Proceedings of the 18th (Ordinary) meeting of the City Municipal Council, Mysore, held in the Rangachariar Memorial Hall on Thursday the 6th March 1924 at 3 A.M.

Present:

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x x

VIII. Proposition from the marginally noted Municipal Councillors-

Hanagar Chikkiah's appeal with all connected file of papers-

Mr.Mahomed Sait.
" K.Purushothamanandagiri Goswamy.
" P.S.Anantha Rao.
" M.K.Madhava Rao,Powar.
" M.L.Vasudeviah.
" U.R.Lingoji Rao.
" Dharmaprakasa Mr.D.Banumiah.
" V.Thiruvengada Modaliyar.
" M. Narayanaswamy.
" K.Dhanakotichetty.

The President made a statement of the case on its merits and regretted that the papers relating to enquiries in cases of embezzlements, cannot freely be circulated or laid on the Table, consistent with Public interests, and that under the Municipal Regulation and Powers delegated to the President no appeal to the Council lies on his orders of dismissal of officials whose pay does not exceed Rs 40 per month.

It was observed by some, that under Section 184 of the Municipal Regulation, the dismissal of Municipal servants on pay of Rs. 15 and less vested with the Chief Officer and that the President cannot exercise his powers in such cases. The President explained that the powers exercised by the President and the Chief Officer in such cases were co-ordinate and concurrent and that in cases of defalcations, etc., where a number of persons were involved, the ends of justice and equity required that the highest authority entitled to pass orders on any one of them should also pass orders in the case of others under the disciplinary control vested in him as President.

GENERAL & REVENUE SECRETARIAT. 737 30 JUL LOCAL SELF GOVT. BRANCH

No. 24
Enc. Two

OFFICE OF THE PRESIDENT.
CITY MUNICIPAL COUNCIL, MYSORE.
Dated 29th July 1924

Urgent

FROM
K. MYLAR RAO, Esqr., B.A., B.L.,
PRESIDENT, CITY MUNICIPAL COUNCIL,
MYSORE.

To
C. Nagappa, Esquire., Bar-at-Law.,
Secretary, to the Government of His Highness
the Maharaja of Mysore, Local & Legislative
Departments.

Mul 87-24-2

30 JUL 1924

I have the honor to submit for favour of orders of Government the question whether an appeal lies to the Municipal Council from an order passed by the President dismissing a Municipal servant whose pay is less than Rs 40.

2. The question has arisen in connection with the orders passed by Mr. C.Srikantesvara Aiyar dismissing or dispensing with the services of certain Manegars concerned in the case of certain embezzlements and overpayments in the Municipality. One of them Chikkiah presented an appeal and this was discussed at the meeting of the Council on the 6th March 1924. Mr. C. Srikantesvara Aiyar pointed out that no appeal lay to the Council and with his view, a majority of the members disagreed. An extract from the Proceedings of the meeting is sent herewith.

3. On the 30th March 1924, Mr.Purushothamanandagiri Gowdamy Gave notice of certain propositions of which one was about the dismissal of Chikka. He was informed in reply on the 22nd April that an appeal did not lie to the Council from the President's Order.

4. Thereafter on the 10th July 1924, a letter was received signed by 12 Councillors requesting that a special meeting of the Council be called for considering the orders passed by the late President dismissing Chikkiah and dispensing with the services of Syed Gouse . I sent them a reply that as no appeal lay from the President's Order to the Council, the special meeting which they desired to be convened would be to no purpose.

5. I received another letter yesterday evening signed by 17 Councillors asking me to convene within four days of its receipt a special meeting for placing before it the propositions mentioned in the letter received on the 10th July. A copy of that letter is sent herewith. I am bound by Section 22 (b) of the Regulation to call a special meeting but it will be to no purpose unless an appeal lies from the President's order to the Council. Hence this reference is made.

6. The Rules framed under Section 46 (b) (i) of the Municipal Regulation defining the powers and duties of the President contain three Clauses (a), (b) and (c). Clause (a) delegates to the President the powers conferred upon the Municipal Council in certain Sections of the Regulation; and in the proviso to that Clause, power is expressly reserved to the Council to receive appeals from the President's order and to revise the same. But in Clause (b) relating to appointments, punishments and dismissals of Municipal servants whose pay does not exceed Rs 40 a month, no power of appeal or revision is reserved. Hence I am inclined to think that no appeal lies from the late President's orders dismissing or dispensing with the services of certain monegars.

7. As the above view is disputed by the Councillors, I request the favour of early orders on the present reference, so that if my interpretation of the Rule is incorrect, I may convene an early special meeting as desired by them for considering the appeal cases. The term of the present Council expires at the end of August and hence the Councillors seem to be anxious to have a special meeting at an early date before the expiry of their term.

I have the honor to be,

Sir,

Your most obedient servant,

K. Raghavendra Rao

President.

Extracts from the Proceedings of the 18th (Ordinary) meeting of the City Municipal Council, Mysore, held in the Rangacharlu Memorial Hall on Thursday the 6th March 1924 at 8 A.M.

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x x

VIII. Proposition from the marginally noted Municipal Councillors-

Manegar Chikkiah's appeal with all connected file of papers-

Mr.Mahomed Sait.
" E.Purushothamanandagiri Goswamy.
" P.S.Anantha Rao.
" M.K.Madhava Rao,Powar.
" M.L.Vasudeviah.
" U.R.Lingoji Rao.
" Dharmaprakasa Mr.D.Banumiah.
" V.Thiruvengada Modaliyar.
" M. Narayanaswamy.
" K.Dhanakotichetty.

The President made a statement of the case on its merits and regretted that the papers relating to enquiries in cases of embezzlements, cannot freely be circulated or laid on the Table, consistent with Public interests, and that under the Municipal Regulation and Powers delegated to the President no appeal to the Council lies on his orders of dismissal of officials whose pay does not exceed Rs 40 per month.

It was observed by some, that under Section 184 of the Municipal Regulation, the dismissal of Municipal servants on pay of Rs. 15 and less vested with the Chief Officer and that the President cannot exercise his powers in such cases. The President explained that the powers exercised by the President and the Chief Officer in such cases were de-ordinate and concurrent and that in cases of defalcations, etc., where a number of persons were involved, the ends of justice and equity required that the highest authority entitled to pass orders on any one of them should also pass orders in the case of others under the disciplinary control vested in him as President.

With this view, 9 disagreed, 4 agreed, and 1 remained neutral, two members having left the meeting in the course of discussion with the permission of the President.

Sd. C. Srikantesvara Aiyar,
President.

President.

To

The President,
The City Municipal Council,
Mysore.

—

Sir,

We are in receipt of your letter No.112 dated 21-7-24. We have the honour to draw your kind attention to the fact that any motion or proposition of a Councillor shall be placed before the Council for discussion and its decision. Vide- The Mysore Municipal Regulation Section 26 Clauses 1 and 3. There is no room for any discussion to be exercised by the President, provided the conditions in the said clauses are fulfilled, and it is obligatory on the President to place such matters before the Council. Any action taken by the President contrary to the said rules would be both improper and illegal.

As regards the right of appeal against the President's order to the Municipal Council, there is no provision in the Regulation to the effect that no appeal lies, as you presume. But it is a well-understood principle that the President only acts on behalf of the Municipal Council and no independently of it as is amply proved by the fact that the President performs duties and exercises powers deligated to him by the Municipal Council under Section 46 B(1) and any action of his, in opposition to the Council is subject to the review of the Council. Besides, one of the four propositions sent up to you to be placed before the Council is, whether an appeal lies against the President to the Council or not. Under Section 46, the Council have power to make, alter or rescind the rules referred to above. It looks humonrous to say that the Council who are in the position of a master and who have delegated some of their powers to an agent (President) are incapable of hearing an

25

appeal or revising an order and controlling the actions of their agent. Hence, it is a point yet to be debated upon.

As regards the duties of the Chief Sanitary Inspector, your reasons for not placing the matter before the meeting asked for, are far from satisfactory. Such routine matters demand an immediate execution of the Resolutions of the Council even pending the ratification by the Government. But when the Government record, the Resolutions, it means a sanction and no further clear and definite order of the Government is necessary. This is only a way of evading the issue and delaying the matter.

Any way, all these matters are to be discussed only by the Council and it is not for the President to arbitrarily refuse to call a special meeting, as required by the rules quoted above, which are mandatory and not recommendatory.

We earnestly trust that you will not go against the wishes of the Municipal Councillors or the well-defined provisions of the Regulation, and that you will be pleased to convene within four days of the receipt of this, a special meeting of the Council, as prayed for in our requisition of 8th July 1924 , for placing the propositions mentioned therein before the same.

Mysore,
25th July 1924.

We have the honour to be,
Sir,
Your most obedient servants,

Sd. P.Pallanjie.
" Mahomed Sait.
" U.R.Lingoji Rao(in Kannada)
" M.K.Madhava Rao Powar.
" K.Dhanakotichetty.
" Y. Virupakshiah.
" N Setwoji Rao. (in Kannada)
" V.Tiruvengada Modaliar.
" B.Munivenkatappa.
" T.S.Siddappa.
" M.Narayanaswamy.
" S.Srikantachar (in Kannada)
" Charles Theobald.
" K.Basavaraj Urs.
" D. Banumi
" M.

"Copy"

igo

G.R.S VI G 34]

SUBJECT.....

Diary No. of letter replied to... 713

General and Revenue Secretariat
(G.R.)
, the / 192

Date of issue 15th August 24

Signed by.....

Section Jud
File No. 87-24
Serial No. 73

Proceedings of the Government of
His Highness the Maharaja of Mysore.

Read—

Letter no. 24 d 29.7.24 from the Pl. City Jud. Ct. Mysore, enquiring whether an appeal lies to the Jud. Ct. from an order passed by the President, dismissing a Jud. servant, whose pay is less than Rs 40/-. d. 1309.

Order thereon No.

Government are of opinion that no appeal lies to the Jud. Ct in such cases.

May this be

i Printed ?
ii treated as a standing order ?
iii published in the Gazette, English Part ?
iv translated ?
v placed at the disposal of the press ?
vi published in the Gazette, Kannada Part ?

Brett 20

20/8 L.L. Secy

To,
The Pl. City Jud. Ct. Mysore.

For 29/8/24

List of enclosures.

Copied by

Examined by

S. O.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. L. 1309—M. L. 87-24-3, dated 15th August 1924.

Appeal.

States that an —— lies to the Municipal Council against the orders of the President in the exercise of his powers of appointment, dismissal, etc., of Municipal Subordinates.

READ—

Letter No. 24, dated 29th July 1924, from the President, City Municipal Council, Mysore, enquiring whether an appeal lies to the Municipal Council from an order passed by the President, dismissing a Municipal servant whose pay is less than Rs. 40.

ORDER No. L. 1309 --M. L. 87-24-3, DATED 15TH AUGUST 1924.

Government are of opinion that appeal does lie to the Municipal Council in such cases.

B. NAGAPPA,
Secretary to Government,
Local and Legislative Departments.

To—The President, City Municipal Council, Mysore.

Exd.—P. S. R. N.

W D 862—GPR—255—23-8-24

To

Albion Rajakumar Banerjee, Es ., I.C.S.,
Dewan to the Government of His Highness
The Maharaja Of Mysore, BANGALORE.

1934 AUG. 1924

Respected Sir,

We the undersigned Municipal Councillors beg to bring the following to your kind consideration.

When Dewan Bahadur C. S. Srikanteswara Iyer was the President of the City Municipal Council, he dismissed one Manegar Chikkayya who was getting a salary of Rs. 15/- and dispensed with the services of one Syed Gouse, Accountant getting a salary of Rs. 25/- without assigning reasons in both the cases. We tried to ascertain what were the grounds on which this action was taken by the then President but we were told that it was done under the extra judicial - powers which were vested in him.

As regards the case of Chikkayya, the power of dismissing a Municipal servant drawing a salary up to Rs. 15/- rests with the Chief Officer whose orders are appealable to the Municipal Council under Section 184 of the Mysore Municipal Regulation [redacted] the opportunity was denied by the Ex-President to the [redacted]uncil. As regards the other case, there is nothing in th regulation that such orders are not appealable to the Council.

The present President Mr. K. Mylara Row, ruled out in the first instance that no appeal lies to the Council from the order of the President and refused to call a Special Meeting of the Municipal Council as per requisition of the Municipal Councillors made under S. 26 Cl. 2 and 3 of the Municipal Regulation which is mandatory and not recommendatory When there is a valid written requisition under Sec-

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tion 26 Clause 2 of the Regulation, the President is not left with any discretion in the matter whether to convene or not and yet the President in his letter No. dated has taken the untenable and illegal attitude.

We are thankful to the President for having allowed us to see the records in the above two cases which privilege was denied to us by the Ex-President. The records shewed that the action taken by the Ex-President was absolutely uncalled for and unwarranted in the circumstances, as there was no case made out against them.

There was again a requisition to the President sent by eighteen Municipal Councillors on 25-7-24 a copy of which is herewith appended for your kind perusal. But to our great surprise and disappointment, the President has sent us a reply that a reference has been made to the Government to ascertain whether an appeal lies or not from the President to the Municipal Council in the case.

We beg to submit that the President has no power to make a reference to the Government without first - calling for the meeting which is mandatory and first ascertaining the opinion of the Council ~~whom~~ on the - question of the right of appeal which after ascertaining he may, in due course, forward with his own remarks.

There is a considerable delay in the kind of

proceedure adopted by the President which is not helpful for people working for Local Self Government. It does look as though the constitution is not much respected, and it is needless to say what inconvenience it causes to the Municipal Councillors and the aggrieved parties.

The present situation is a unique one which we submit calls for the immediate interference of the — Government which we may pray will speedily set right the irregularities. We therefore, earnestly pray that the benign Government will be pleased to call upon the President to place the propositions in the requisition of 25-7-24 before the Municipal Council without delay, for which we will be ever grateful to you.

We beg to remain,

Sir,

Your most obedient Servants.

To

The President,
The City Municipal Council,
MYSORE.

Sir.

We are in receipt of your letter No.II2 dated 21-7-24. We have the honour to draw your kind attention to the fact that any motion or proposition of a Councillor shall be placed before the Council for discussion and decision. Vide. the Mysore Municipal Regulation Section 26, Clauses 2 and 3. There is no room for any discretion to be exercised by the President provided the conditions in the said clauses are fulfilled and it is obligatory on the President to place such matters before the Council. Any action taken by the President contrary to the said rules would be both improper and illegal.

As regards the right of appeal against the President's order to the Municipal Council, there is no provision in the Regulation to the effect that no appeal lies as you presume. But it is a well-understood principle that the President only acts on behalf of the Municipal Council and not independently of it as is amply proved by the fact that the President performs duties and exercises powers delegated to him by the Municipal Council under -- section 46 B (I) and any action of his in opposition to the Council is subject to the review of the Council. Beside one of the four propositions sent up to you to be placed before the Council is, whether an appeal lies against the President's order to the Council or not (2) under section 46 the Council have power to make alter or rescind the -- rules referred to above. It looks humourous to say that the Council who are in the position of a Master and who

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have delegated some of their powers to an agent (President) are incapable of hearing an appeal or revising an order and controlling the action of their agent. Hence, it is a point yet to be debated upon.

As regards the duties of the Chief Sanitary Inspector, your reasons for not placing the matter befor the meeting asked for, are far from satisfactory. Such routine matters demand an immediate execution of the resolutions of the Council even pending the ratification from the Government. But when the Government record the Resolutions, it means a sanction and no further clear and definite order of the Government is necessary. -- (This is only a way of evading the issue and delaying the matter.)

Any way, all these matters are to be discussed by the Council and it is not for the President to arbitrarily refuse to call a special meeting as required by the rules quoted above which are mandatory and not recommendatory.

We earnestly trust that you will not go against the wishes of the Municipal Councillors or the well-defined provisions of the Regulation, and that you will be pleased to convene within four days of the receipt of this, a special meeting of the Council as prayed for in our requisition of the 8th July 1924, for placing the propositions mentioned therein before the same.

An early reply within 24 hours is solicited.

Bangalore,
9th July 1924.

We have the honour to be,
Sir,
Your most obedient servants,

Revd.Father, Mr.J.Theobald, Mr.P.Palanji, Mr.Ananthe Rao, Mr.Md.Sait, Mr.Virupakshiah, Mr.Dhankoti Setty, Mr.[illegible] Rao, Mr.N.Setwaji, Mr.Narayanaswamy, Mr.Basavaraj Urs, Doctor Siddappa, Mr.Srikantachar, Mr.Munivenkatappa, Mr.[illegible] Mr.Purushothamanandagiri Gosai & Mr.Lingoji Rao.

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Office of the President,
City Municipal Council, Mysore,
Dated 31st July 1924.

No.205

FROM

The President,
City Municipal Council,
MYSORE.

To

All the 18 Municipal Councillors.

Sir

With reference to your letter dated 25th instant and received in this office on the 28th asking me to call for a special General Meeting, I have the honour to state that a reference has been made to Government as to whether an appeal lies from the President's Order dismissing or dispensing -- with the services of a Municipal servant whose pay is less than Rs.40/- and ass soon as a reply is received, if it be in the affirmative the Special Meeting will be called for.

As regards the duties to be assigned to the Chief Sanitary Inspector, the order of Government on this subject also has been solicited and the needful will be done as soon as it is received.

I have the honour to be,
Sir,
Your most obedient Servant,
-Sd- K. Mylara Rao.
President.

-True Copy-

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Office of the President,
City Municipal Council, Mysore.
Dated 31st July 1924.

From

The President,
City Municipal Council,
Mysore.

To

~~K. Dhanakotichetty, Esq.~~,
Municipal Councillor,
Mysore.

Sir,

With reference to your letter of the 8th July 1924 asking me to call a special general meeting for the consideration of certain propositions, I have the honour to point out that propositions 1 to 4 relate to the orders passed by the late President Mr. Sreekantaiyya Aiyar dismissing Municipal servant Chikkiah and dispensing with the services of Syed Omar. As no appeal lies from the President's order to the Council and it is not open to the Council to consider the four propositions referred to above, the special meeting which you ask me to call will be to no purpose.

As regards the duties to be assigned to the Chief Sanitary Inspector, a reference was made to Government in pursuance of the resolution passed by the Council. A clear and definite order has not been received regarding it. I am moving the Government again in the matter. On receipt of their order, it will be placed before the Council and special action taken.

I have the honour to be,
Sir,
Your most obedient servant,
K. Gurlar Rao
President.

L 144 87 Enc 7

D 17-8-24

To

The President
Regina Civic Municipal Co.

Sir,

I am directed to return herewith the enclosures to your letter dated 9224/24 addressed to the Deputy Minister of Labour relative to a special meeting called for by Commissioners of the Regina Municipal Co. and to forward herewith the [illegible] Chief Justice. The receipt of the [illegible]

Mysore 25
16th July 1924

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Dear Mr Sundara Rao.

I shall thank you
will kindly return
about the special
which certain councillors
me to convene for the
ation of the order
by the late President
Chikkiah and
municipal servants,
forwarded to you with my
letter dated 22nd July 1924.

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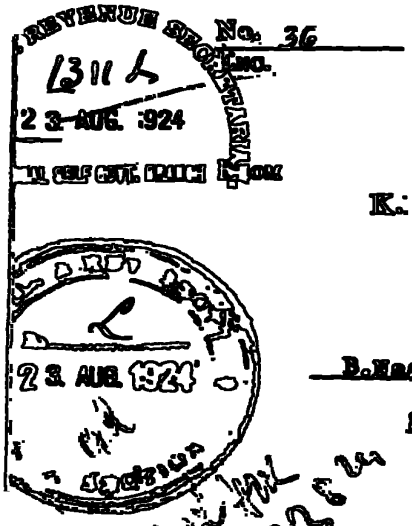

No. 36

OFFICE OF THE PRESIDENT,
CITY MUNICIPAL COUNCIL, MYSORE.
Dated 22nd August 1924.

K. MYLAR RAO, Esqr. B.A., B.L.,
PRESIDENT, CITY MUNICIPAL COUNCIL,
MYSORE.

B.Narayana, Esq., Bar-at-law.,
Secretary to the Government of His Highness
the Maharaja of Mysore, (Local and Legislative
Departments),
Bangalore.

Sir,

I have the honour to acknowledge with thanks, receipt of the papers sent with your letter No.L.1448/Rnd.7 dated 19th August 1924.

I have the honour to be,
Sir,
Your most obedient servant,
K Mylar Rao
President.

AO

F. R. S. VI.—6/9]

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE SECRETARIAT.

DATED *Bangalore*, 22nd Aug 1924

No. G. 1573.

ENDORSEMENT.

M 87-24-5

Granted to Mr K. Dhanakoti Chetty & other mbrs of the Mysore City Mcl Co., Mysore

In reply to ~~his~~ their petition dated nil, requesting that the Pl. of the Mcl may be ~~is informed that~~ asked to place certain ~~the~~ propositions ~~last~~ forwarded by them at a Special meeting of the Cl to be called for the purpose Mr K Dhanakoti Chetty & others are referred to in Govt. No. L 1309/M187-24-3 dt 15/8/24, have ~~has been~~ held that an appeal from the Pl's order lies to the Mcl in cases like ~~the~~ this

By Order,

Secretary to Government.

WD [illegible]—PB—5,000—4-2-19